

Exhibit 8

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March 7, 2013

Brenda S. Hamilton, Clerk
Roanoke City Circuit Court
315 West Church Avenue
Roanoke, Virginia 24011

Re: Barbara J. Filson v. Insight Health Corp., *et al.*; CL12002575-00

Dear Ms. Hamilton:

Enclosed for filing is Plaintiff's Motion for Partial Summary Judgment as to Limit of Damages Under Va. Code § 8.01-581.15 and Notice of Hearing.

As always, thank you for your assistance. Please do not hesitate to contact me should you have any questions.

Very truly yours,

GENTRY LOCKE RAKES & MOORE, LLP


J. Scott Sexton

JSS:lav

Enclosures

cc: Christopher E. Hassell, Esq. (w/encs. – via email & U.S. Mail)
Brian J. Gerling, Esq. (w/encs. – via email & U.S. Mail)
Clinton R. Shaw, Jr., Esq. (w/encs. – via email & U.S. Mail)
John T. Jessee, Esq. (w/encs. – via email & U.S. Mail)
Nancy F. Reynolds, Esq. (w/encs. – via email & U.S. Mail)
Michael P. Gardner, Esq. (w/encs. – via email & U.S. Mail)
Benjamin D. Byrd, Esq. (w/encs. – via email)
H. David Gibson, Esq. (w/encs. – via email)
Anthony M. Russell, Esq. (w/encs. – via email)
Charles H. Smith, III, Esq. (w/encs. – via email)
Daniel R. Sullivan, Esq. (w/encs. – via email)

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

BARBARA J. FILSON,

Plaintiff,

v.

INSIGHT HEALTH CORP., *et al.*

Defendants.

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Case No: C12002575-00

**MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO
LIMIT OF DAMAGES UNDER VA. CODE §8.01-581.15**

COMES NOW the plaintiff, by counsel, and files this her Motion for Partial Summary Judgment.

1. This is a personal injury action brought by Barbara J. Filson, seeking damages associated with fungal meningitis caused by a series of tainted steroid shots from Insight Health Corp. ("Insight").

2. This motion does not seek summary judgment as to the merits of Ms. Filson's allegations against Insight wherein she asserts that Insight injected tainted methylprednisolone acetate directly into her spinal canal after it purchased the cheapest form of this drug available from an unaccredited, high volume, illegal compounding pharmacy surrounded by a garbage facility in Massachusetts. It then pawned this drug off to Ms. Filson and many others as the FDA-approved and FDA-regulated Pfizer drug, Depo-Medrol. For billing purposes, it falsely labeled the drug as a generic form of the same medication produced by another FDA-approved and FDA-regulated manufacturer, TEVA. Apart from this active deception, Insight breached its duties to Ms. Filson and violated Virginia law by holding, offering for sale, and delivering an adulterated drug to Ms. Filson, causing her fungal meningitis.

3. Ms. Filson filed the instant lawsuit on December 28, 2012.

4. After Insight filed demurrers to the Complaint, Ms. Filson served Requests for Admission upon it on February 7, 2013. A copy of Insight's response to those Requests for Admission is attached hereto as **Exhibit 1**.

5. Pertinent to the instant Motion, Ms. Filson requested that Insight admit "**You are not a health care provider as defined in Virginia Code § 8.01-581.1.**"

6. Insight responded as follows, "**Admitted.**" **Ex. 1, Ans. 2.**

7. Virginia law imposes a limit on recoverable damages in cases of malpractice against "health care providers." Va. Code §8.01-581.15. The limit applicable to claims arising after July 1, 2012 is \$2,050,000.00, (the "Cap"). Id.

8. The term "health care provider" is defined by Va. Code §8.01-581.1.

9. The General Assembly imposed the Cap in medical malpractice cases "for the purpose of enabling *licensed* health care providers to secure medical malpractice insurance at affordable rates." Schwartz v. Brownlee, 253 Va. 159, 167 (1997) (emphasis added).

10. The Cap applies to *licensed* health care providers whereas "one who is unlicensed as a health care provider in this Commonwealth, whether principal or agent, is not entitled to the protection of the medical malpractice cap." Id. at 166.

11. Because Insight admits it is not a health care provider, there is no dispute as to the applicability of the Cap with regard to the claims asserted by the Plaintiff against Insight. It is undisputed that Insight is not entitled to the Cap under Virginia Code § 8.01-581.15.


12. Ms. Filson thus moves the Court for summary judgment on the narrow issue of the applicability of Virginia Code § 8.01-581.15 to Insight.

13. Rule 3:20 of the Rules of the Supreme Court of Virginia, provides for summary judgment as to the undisputed portion of contested claims when, as here, the admissions of the parties establish there are no material facts genuinely in dispute with regard to such issue.

14. Accordingly, the Court should grant Ms. Filson's Motion, and enter summary judgment finding that Insight Health Corp. is not a health care provider entitled to the recoverable damage limitations set forth in Va. Code § 8.01-581.15.

WHEREFORE, the plaintiff moves this Court for entry of an Order granting her Motion and for such further relief deemed just.

BARBARA J. FILSON


Of Counsel

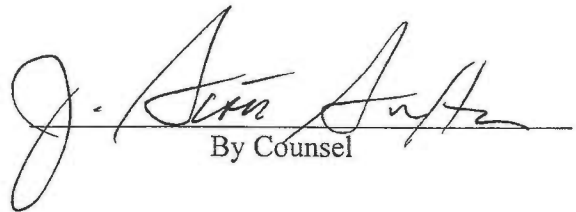
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Counsel for Barbara J. Filson

LAW OFFICES
GENTRY LOCKE
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ROANOKE, VIRGINIA

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of March 2013, the foregoing was served via electronic and regular mail upon Christopher E. Hassell, Esq. 1233 20th Street, N.W., Suite 800, Washington, D.C. 20036, counsel for Insight Health Corp., and John Jessee, Esq., 1800 Wells Fargo Tower, Drawer 1200, Roanoke, Virginia 24006 counsel for Image Guided Pain Management. P.C., John M. Mathis, M.D. and Robert F. O'Brien, M.D.


By Counsel

VIRGINIA

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

BARBARA J. FILSON,

Plaintiff,

v.

Case No. CL12-2575

INSIGHT HEALTH CORP.,

JOHN MATHIS, M.D.,

ROBERT F. O'BRIEN, M.D.,

and

IMAGE GUIDED PAIN MANAGEMENT,
P.C.,

Defendants.

**DEFENDANT INSIGHT HEALTH CORPORATION'S
RESPONSES TO PLAINTIFF'S FIRST REQUEST FOR ADMISSION**

COMES NOW Defendant, Insight Health Corp., (hereinafter referred to as "Insight Health"), by and through counsel, Bonner Kiernan Trebach & Crociata, LLP, and hereby submits their Responses to Plaintiff's Requests for Admissions as follows:

RESPONSES TO ADMISSIONS

1. Admit you are a health care provider as defined in Virginia Code § 8.01-581.1.

RESPONSE: Denied.

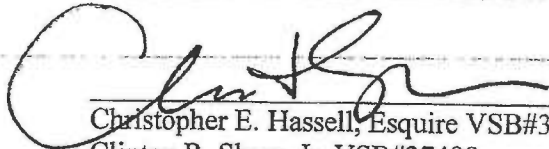
2. Admit you are not a health care provider as defined in Virginia Code § 8.01-581.1.

RESPONSE: Admitted.

EXHIBIT 1

Date: March 5, 2013

BONNER KIERNAN TREBACH & CROCIATA, LLP



Christopher E. Hassell, Esquire VSB#30469

Clinton R. Shaw, Jr. VSB#37498

Brian J. Gerling, Esquire VSB #75817

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cshaw@bonnerkiernan.com

bgerling@bonnerkiernan.com

Counsel for Insight Health Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused to be served the foregoing Responses to Plaintiff's Request for Admission via regular mail and email this 5th day of March, 2013 to:

J. Scott Sexton
Gentry Locke Rakes & Moore, LLP
10 Franklin Road, S.E., Suite 800
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and

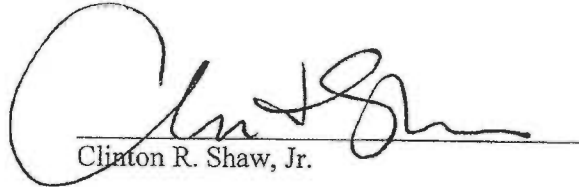
Rebecca Herbig
Bowman and Brooke LLP
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Richmond, VA 23219
p804.649.8200
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and

New England Compounding Center
Its Registered Agent of Process: CT Corporation System
4701 Cox Road
Suite 301
Glen Allen, Virginia, 23060

and

John Jessee
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Clinton R. Shaw, Jr.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

BARBARA J. FILSON,

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INSIGHT HEALTH CORP., *et al.*,

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Case No: CL12002575-00

NOTICE OF HEARING

PLEASE TAKE NOTICE that on the 5TH day of April, 2013, commencing at 10:00 a.m., before a Judge for the Roanoke City Circuit Court, a hearing will be held on Plaintiff's Motion for Partial Summary Judgment as to Limit of Damages Under Va. Code § 8.01-581.15.

You must be present if you wish to be heard.

BARBARA J. FILSON


By Counsel

J. Scott Sexton, Esq. (VSB No. 29284)
Anthony M. Russell, Esq. (VSB No. 44505)
Charles H. Smith, III, Esq. (VSB No. 32891)
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Counsel for Barbara J. Filson

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Counsel for Defendant Insight Health Corp.

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Nancy F. Reynolds, Esq.
Michael P. Gardner, Esq.
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michael.gardner@leclairryan.com

Counsel for the defendants Image Guided Pain Management,
John Mathis, M.D., and Robert O'Brien, M.D.


By Counsel